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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 DOUGLAS MCKINLEY, II, et al.,

12 Plaintiffs,

13 v.

14 COUNTY OF FRESNO, et al.,

15 Defendants.
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Case No. 1:21-cv-00754-NONE-SAB

ORDER DENYING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
WITHOUT PREJUDICE AND REQUIRING
PLAINTIFF TO FILE LONG FORM
APPLICATION OR PAY FILING FEE

(ECF No. 2)

TWENTY DAY DEADLINE

18 Douglas McKinley, II, and Joanna McKinley (“Plaintiffs”) filed a complaint in this action
19 on May 10, 2021.¹ (ECF No. 1.) Plaintiff Douglas McKinley did not pay the filing fee in this
20 action and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. §
21 1915. However, Plaintiff’s application was not sufficiently completed for the Court to determine
22 if he is entitled to proceed in this action without prepayment of fees.

23 In assessing whether a certain income level meets the poverty threshold under Section
24 1915(a)(1), courts look to the federal poverty guidelines developed each year by the Department
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26 ¹ The Court notes that the caption of the complaint contains that names of additional individuals who did not sign
27 the complaint. Plaintiffs are advised that pro se litigants have no authority to represent anyone other than
28 themselves in this action. Johns v. County of San Diego, 114 F.3d 874, 877 (9th Cir. 1997); C. E. Pope Equity Trust
v. United States, 818 F.2d 696, 697 (9th Cir. 1987). Further, the Ninth Circuit has specifically held that “a parent or
guardian cannot bring an action on behalf of a minor child without retaining a lawyer.” Johns, 114 F.3d at 877.
Accordingly, Plaintiffs cannot bring this action to assert the rights of their children without retaining counsel.

1 of Health and Human Services. See, e.g., Paco v. Myers, No. CIV. 13-00701 ACK, 2013 WL
2 6843057 (D. Haw. Dec. 26, 2013); Lint v. City of Boise, No. CV09-72-S-EJL, 2009 WL
3 1149442, at *2 (D. Idaho Apr. 28, 2009) (and cases cited therein). The 2021 Poverty Guidelines
4 for the 48 contiguous states for a household of two is \$17,420.00. 2021 Poverty Guidelines,
5 <https://aspe.hhs.gov/poverty-guidelines> (last visited May 12, 2021).

6 In his application, Plaintiff Douglas McKinley states that he receives gross wages of
7 \$1,466.00 every other week making his monthly income \$2,932.00. Therefore, Plaintiff Douglas
8 McKinley's income is \$35,184.00, well above the poverty level for a family of two. Further,
9 Plaintiff Douglas McKinley did not complete the section asking if he receives any other form of
10 income. Additionally, Joanna McKinley also is named as a plaintiff and signed the complaint
11 but did not file an application to proceed *in forma pauperis*.

12 Accordingly, the Court will order the plaintiffs to complete and file an Application to
13 Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239. If Plaintiffs
14 are unwilling to complete and submit the long form application, Plaintiffs must pay the filing fee
15 in full.

16 Based upon the foregoing, it is HEREBY ORDERED that:

- 17 1. Plaintiff Douglas McKinley's application to proceed *in forma pauperis* is
18 DENIED without prejudice;
- 19 2. The Clerk of the Court is directed to forward **two (2)** Applications to Proceed in
20 District Court Without Prepaying Fees or Costs (Long Form) – AO 239 to
21 Plaintiffs;
- 22 3. Within **twenty (20) days** of the date of this order, Plaintiffs shall either (1) pay
23 the \$402.00 filing fee for this action, or (2) complete and file the enclosed
24 Application to Proceed in District Court Without Prepaying Fees or Costs (Long
25 Form) – AO 239; and

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1 4. If Plaintiffs fail to comply with this order, this action shall be dismissed for failure
2 to pay the filing fee and failure to comply with a court order.

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4 IT IS SO ORDERED.

5 Dated: May 12, 2021


UNITED STATES MAGISTRATE JUDGE